

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6821 OF 2018

President, Kai Sushilatai Gaikwad
Bahuudeshiya Sanstha, Kegaon

...Petitioner

V/s.

Solapur Municipal Corporation & Anr.

...Respondents

Dr. Uday Warunjikar a/w Adv. Sumit Kate & Adv. Sonali Chavan for
the Petitioner.

Mr. A. S. Rao for the Respondent No. 1 & 2

**CORAM : A. A. SAYED &
 S. G. DIGE, JJ**

DATED : 29th September, 2021

P.C.:

The Petitioner is a Trust registered under the provisions of the Maharashtra Public Trust Act as well as Societies Registration Act. The Petitioner is running an educational institutional which was granted exemption by the Respondent for the year 2006-07 which was continued till 2010-11. It is the case of the Petitioner that all of a sudden on 3rd December, 2011, the exemption granted to the Petitioner was cancelled and a demand notice dated 9th July, 2013 was issued to the Petitioner for a sum of Rs.30,75,907/-

2. The prayers in the Petition read as follows:

(a) Be pleased to hold and declare that the provisions of Section 406(5) of the Maharashtra Municipal Corporation Act, 1949 is ultra vires to the Constitution of India, 1950 and to be pleased to set aside the provisions of the deposit in respect of the amount under challenge.

(b) As a consequence thereof be pleased to grant stay to the demand notice made by the Respondent dated 9th July, 2013 for Rs.30,75,907/- on such terms and conditions as this Hon'ble Court may deem fit and proper.

3. The issue raised in the Petition is squarely covered by the decision of the Division Bench of this Court in **Walchandnagar Industries Limited Vs Municipal Corporation Of The City Of Pune & Ors, (2014) 2 Mh.L.J. 852** wherein the Division Bench has upheld the constitutional validity of Section 406 of the MMC Act. We note that prayer clause (b) of the Petition is only a consequential prayer which starts with the words - "As a consequence thereof".

4. In the circumstances, no reliefs can be granted to the Petitioner. The Petition is accordingly dismissed. The remedy of the Petitioner to approach the Small Causes Court under section 406 of the MMC Act, 1949 is kept open, if so permissible in law.

(S. G. DIGE, J.)

(A. A. SAYED, J.)